

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 301

SENATE BILL 1172

AN ACT

AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-886.01; AMENDING SECTIONS 38-890 AND 38-902, ARIZONA REVISED STATUTES; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 38, chapter 5, article 6, Arizona Revised Statutes,
3 is amended by adding section 38-886.01, to read:

4 38-886.01. Ordinary disability retirement for noncorrection
5 staff; qualifications; amount of pension;
6 conditions for continued payment of pension;
7 definition

8 A. FULL-TIME DISPATCHERS WHO ARE EMPLOYED BY AN EMPLOYER OF AN
9 ELIGIBLE GROUP AS DEFINED IN SECTION 38-842 MAY RETIRE AND RECEIVE AN
10 ORDINARY DISABILITY PENSION IF THE LOCAL BOARD FINDS THAT ALL OF THE
11 FOLLOWING CONDITIONS OCCUR:

12 1. AN APPLICATION FOR DISABILITY RETIREMENT IS FILED WITH THE
13 RETIREMENT PLAN OR THE LOCAL BOARD BY EITHER THE MEMBER OR THE MEMBER'S
14 PARTICIPATING EMPLOYER AFTER THE DISABLING INCIDENT OR WITHIN ONE YEAR AFTER
15 THE DATE THE MEMBER CEASES TO BE AN EMPLOYEE. TIMELY APPLICATION FOR AN
16 ORDINARY DISABILITY PENSION IS A PREREQUISITE TO RECEIPT OF THE PENSION.

17 2. THE MEMBER UNDERGOES ALL MEDICAL EXAMINATIONS AND TESTS ORDERED BY
18 THE LOCAL BOARD AND RELEASES TO THE LOCAL BOARD ALL MEDICAL REPORTS AND
19 RECORDS REQUESTED BY THE LOCAL BOARD.

20 3. THE LOCAL BOARD DETERMINES THAT AN ORDINARY DISABILITY CONDITION
21 EXISTS THAT MEETS THE REQUIREMENTS FOR AN ORDINARY DISABILITY.

22 B. THE EFFECTIVE DATE OF AN ORDINARY DISABILITY RETIREMENT SHALL NOT
23 PREDATE THE DATE OF DISABILITY OR THE DATE THE MEMBER CEASES TO BE AN
24 EMPLOYEE.

25 C. THE AMOUNT OF AN ORDINARY DISABILITY PENSION IS EQUAL TO A FRACTION
26 TIMES THE MEMBER'S NORMAL RETIREMENT PENSION THAT IS COMPUTED PURSUANT TO
27 SECTION 38-885, SUBSECTION C AS IF THE MEMBER HAD TWENTY-FIVE YEARS OF
28 CREDITED SERVICE. THE FRACTION IS THE RESULT OBTAINED BY DIVIDING THE
29 MEMBER'S ACTUAL YEARS OF CREDITED SERVICE, NOT TO EXCEED TWENTY-FIVE YEARS OF
30 CREDITED SERVICE, BY TWENTY-FIVE.

31 D. DURING THE PERIOD, IF ANY, BETWEEN THE EFFECTIVE DATE OF ORDINARY
32 DISABILITY RETIREMENT AND THE DATE THE DISABLED RETIRED MEMBER ATTAINS
33 SIXTY-TWO YEARS OF AGE THE LOCAL BOARD MAY REQUIRE A DISABLED RETIRED MEMBER
34 TO UNDERGO PERIODIC REEVALUATION OF THE CONTINUATION OF ORDINARY DISABILITY.
35 IF THE DISABLED RETIRED MEMBER REFUSES TO SUBMIT TO REEVALUATION, THE LOCAL
36 BOARD MAY SUSPEND PAYMENT OF THE PENSION. IF THE REFUSAL CONTINUES FOR ONE
37 YEAR, THE LOCAL BOARD MAY REVOKE THE DISABLED RETIRED MEMBER'S RIGHTS TO THE
38 PENSION. AN ORDINARY DISABILITY PENSION IS TERMINATED IF THE LOCAL BOARD
39 FINDS THE RETIRED MEMBER NO LONGER MEETS THE REQUIREMENTS FOR ORDINARY
40 DISABILITY RETIREMENT.

41 E. A MEMBER DOES NOT QUALIFY FOR AN ORDINARY DISABILITY PENSION IF THE
42 LOCAL BOARD DETERMINES THAT THE MEMBER'S DISABILITY RESULTS FROM ANY OF THE
43 FOLLOWING:

44 1. AN INJURY SUFFERED WHILE ENGAGED IN A FELONIOUS CRIMINAL ACT OR
45 ENTERPRISE.

1 2. SERVICE IN THE ARMED FORCES OF THE UNITED STATES THAT ENTITLES THE
2 MEMBER TO A VETERAN'S DISABILITY PENSION.

3 3. A PHYSICAL OR MENTAL CONDITION OR INJURY THAT EXISTED OR OCCURRED
4 BEFORE THE MEMBER'S DATE OF MEMBERSHIP IN THE PLAN.

5 F. LOCAL BOARDS SHALL BASE A FINDING OF ORDINARY DISABILITY ON MEDICAL
6 EVIDENCE THAT IS OBTAINED BY A MEDICAL DOCTOR OR CLINIC SELECTED BY THE LOCAL
7 BOARD AND SHALL DISREGARD ANY OTHER MEDICAL EVIDENCE OR OPINIONS. IF THE
8 LOCAL BOARD RETAINS MORE THAN ONE MEDICAL DOCTOR OR CLINIC IN CONNECTION WITH
9 THE APPLICATION, THE LOCAL BOARD SHALL RESOLVE ANY MATERIAL CONFLICTS
10 PRESENTED IN THE MEDICAL EVIDENCE THAT IS PRESENTED BY THE MEDICAL DOCTORS OR
11 CLINICS.

12 G. FOR THE PURPOSES OF THIS SECTION, "ORDINARY DISABILITY" MEANS A
13 PHYSICAL CONDITION THAT THE LOCAL BOARD DETERMINES WILL PREVENT AN EMPLOYEE
14 FROM TOTALLY AND PERMANENTLY PERFORMING A REASONABLE RANGE OF DUTIES WITHIN
15 THE EMPLOYEE'S DEPARTMENT OR A MENTAL CONDITION THAT THE LOCAL BOARD
16 DETERMINES WILL PREVENT AN EMPLOYEE FROM TOTALLY AND PERMANENTLY ENGAGING IN
17 ANY SUBSTANTIAL GAINFUL ACTIVITY.

18 Sec. 2. Section 38-890, Arizona Revised Statutes, is amended to read:

19 38-890. Pensions; commencement and duration

20 A. A normal retirement pension, an accidental disability pension, ~~or~~ a
21 total and permanent disability pension OR AN ORDINARY DISABILITY PENSION
22 commences on the first day of the calendar month next following the member's
23 date of retirement. A survivor pension commences on the first day of the
24 calendar month next following the month in which the death causing payment of
25 the pension occurs.

26 B. Termination of payment of a pension occurs at the end of the
27 calendar month in which the event causing the termination occurred. The
28 payment shall be made for the full month of termination.

29 C. A change in the amount of a pension occurs on the first day of the
30 calendar month next following the date of the event causing the change.

31 Sec. 3. Section 38-902, Arizona Revised Statutes, is amended to read:

32 38-902. Joinder agreement

33 A. County detention officers and nonuniformed employees of a sheriff's
34 department whose primary duties require direct contact with inmates may
35 participate in this plan if the board of supervisors of the county enters
36 into a joinder agreement with the fund manager to bring such employees into
37 this plan. The joinder agreement shall be in accordance with the provisions
38 of this plan. All such employees shall be designated for membership in the
39 joinder agreement unless written consent to the contrary is obtained from the
40 fund manager.

41 B. City or town detention officers may participate in this plan if the
42 governing body of the city or town enters into a joinder agreement with the
43 fund manager to bring its detention officers into this plan. The joinder
44 agreement shall be in accordance with the provisions of the plan. The
45 governing body of the city or town shall designate all detention officers for

1 membership in the plan unless written consent to the contrary is obtained
2 from the fund manager.

3 C. Full-time dispatchers may participate in this plan if the governing
4 body or agency of the employer of an eligible group as defined in
5 section 38-842 enters into a joinder agreement with the fund manager to bring
6 its full-time dispatchers into this plan. The joinder agreement shall be in
7 accordance with the provisions of this plan. The governing body or agency of
8 the employer shall designate all full-time dispatchers for membership in the
9 plan ~~unless written consent to the contrary is obtained from the fund manager~~
10 EXCEPT FOR A FULL-TIME DISPATCHER WHO SIGNS AN IRREVOCABLE AGREEMENT BEFORE
11 THE JOINDER AGREEMENT BECOMES EFFECTIVE ELECTING NOT TO BECOME A MEMBER OF
12 THE PLAN. A FULL-TIME DISPATCHER EMPLOYED BY AN EMPLOYER WHO BECOMES
13 ELIGIBLE FOR MEMBERSHIP IN THE PLAN PURSUANT TO THIS SECTION MAY ELECT TO
14 PARTICIPATE IN THE PLAN WITHIN THE DEADLINES AND PURSUANT TO THE TERMS
15 PRESCRIBED FOR SUCH PARTICIPATION BY THE FUND MANAGER.

16 D. The new employer shall designate the groups of employees who are
17 eligible to participate in the plan and shall agree to make contributions
18 each year that are sufficient to meet both the normal cost of a level cost
19 method attributable to inclusion of its employees and the prescribed interest
20 on the past service cost for its employees.

21 E. Before the execution of any joinder agreement each employer
22 contemplating participation in the plan shall have an actuarial valuation
23 made, which is payable by the employer, to determine the estimated cost of
24 participation in accordance with section 38-894.

25 F. Assets under any existing public employee defined benefit
26 retirement program, except a military retirement program, that are necessary
27 to equal the actuarial present value of projected benefits attributable to
28 the employer's designated employee group, calculated using the actuarial
29 methods and assumptions adopted by the existing public employee retirement
30 program, shall be transferred from the program to this fund no later than
31 sixty days after the employer's effective date. That portion of the
32 transferred assets that is attributable to employee contributions, including
33 interest credits, shall be properly allocated to each affected employee of
34 the employer and credited to the employee's initial accumulated contributions
35 in accordance with a schedule furnished by the employer to the fund manager.

APPROVED BY THE GOVERNOR MAY 26, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 26, 2006.